

COMPLAINT UNDER 42 USC §1983, CIVIL RIGHTS ACT-TDCJ-ID (Rev. 7/97)

IN THE UNITED STATES DISTRICT COURT
FOR THE Southern DISTRICT OF TEXAS
Houston DIVISION

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

DEC 11 2000

ANZETTA Smith #529054
Plaintiff's name and ID Number

MICHAEL N. MILBY, CLERK OF COURT

Bill Clements Unit
Place of Confinement

00-432300-4393
CASE NO.

(Clerk will assign the number)

Mike Schwartz

338th District Court 1201 Franklinst 15th Fl. Houston, Tx. 77002

Defendant's name and address

James Seeman
137C, 2500 Lazy Hollow Dr, Harris County Houston, Tx 77063

Defendant's name and address

Mr. William Hatten
338th District Court 1201 Franklinst 15th Fl. Houston, Tx. 77002

Defendant's name and address

(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE. ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$150.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the application to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as amended by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the Court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$150 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? YES NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: ON-OR (CA) 1993
2. Parties to previous lawsuit:
 Plaintiff(s) ANZETTA SMITH # 529054
 Defendant(s) DARWIN S. Treadway
3. Court: (If federal, name the district; if state, name the county.) Northern District (AMARILLO)
4. Docket Number: My records have been destroyed
5. Name of judge to whom case was assigned: CLINTON E. AVERITTE
6. Disposition: (Was the case dismissed, appealed, still pending?)
(Dismissed)
7. Approximate date of disposition: (CA) 1996

II. PLACE OF PRESENT CONFINEMENT: Bill Clement Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES: N/A

Have you exhausted both steps of the grievance procedure in this institution? YES NO

Attach proof of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: ANZETTA A SMITH #529054

Bill Clements Unit T.D.C. J. ID

9601 Spur 591 Amarillo, TX 79107

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: Mike Schwartz - Harris County District Attorney -
338th District Court 1201 Franklin St 15th Fl Houston, TX. 77002

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

See Attached Sheet marked (3.01 Defendant #1)

Defendant #2: James Seeman - Attorney - Harris County Sec.,
137C, 2500 Lazy Hollow Dr. Houston, TX. 77063

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

See Attached Sheet marked (3.03 Defendant #2)

Defendant #3: William Hatten - Judge - 338th District Court
1201 Franklin St 15th Fl. Houston, TX. 77002

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

See Attached Sheet marked (3.05 Defendant #3)

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

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Attached

IV. Parties to this Suit

Part: (B). Cont.

Defendant^{#1}: MR. Mike Schwartz acting in his official capacity, as the District Attorney of Harris County - did and knowingly-or-should have known deprived me of my Right to Due Course of Law:
^{#1} (1). I was denied either or Both a Speedy public trial by an Impartial Jury^{#2} (2). I was totally denied my Right to demand the Nature and Cause of the accusations against me (i.e. to have a copy thereof) on APR/2000 I was informed by A MR. Sharber (i.e. A T.D.C. J.-ID parole officer) of a conviction on my record of which I had no working knowledge, I supposedly having been convicted of this crime in (9/9/92) however impossible - as I was clearly confined with in the confines of T.D.C. J.-ID. ON (CA) 8/00 I attempted a letter of Comity to MR. Schwartz -

Attached

IV. parties to this suit

Part: (B) Cont

#1

Defendant (Cont): to attempt to clarify this situation (i.e. requesting a copy of the records) (1) (The Indictment) (2) (The police Report etc....) on 9/00 I also sent a like Communiqué to the District Clerk - A Mr. Backissa seeking the same; and again on 10/00, however each of these went unheeded. (3). I was Denied my Right to be heard. (4). I was Denied my opportunity to confront witness against me, and my Right to the compulsory processes in my interest. Mr. Mike Schwartz maliciously further solidified my already incapacitated state, further stigmatizing me to the T.D.C. J.I.D. Manumitting Agency (i.e. The parole Board)

Attached

IV. parties to this Suite

Part: (B), cont.

Defendant[#] 1 (cont): which is in its self, Arbitrary Enough - alone; and without the additional convictions of which I've suffered unjustly; deprived of my 5th, 6th and 14th Amendment rights to due process.

Defendant[#] 2 (cont): Mr. Seeman acting as my supposed public defender; whom I've never met. Denied me a defense in a criminal matter - that of which I'm entitled: To be represented by counsel in any adversarial judicial process. (2). Denied me the right to consult with him in private - to formulate a fathomable defense.

Attached

IV. Parties to this Suite

Part: (B) Cone

Defendant #2 (Cone): (3). I was denied my right to any rights and to waive any of these rights (4). Mr. Seeman allowed my conviction - without my knowledge of a pending adversarial process, and further allowed the conduction of said process - that without my knowledge / signature - or - any documentation. Thus he blatantly entered into an act of collusion with Mr. Mike Schwartz, the District Attorney which stigmatized and deprived me of all my rights under the 5th, 6th & 14th Amendments.

Attached

IV. Parties to this Suit

Part: (B) Cone

Defendant #3 (Cone): Mr. William Hatten The Judge Allowed me to be harmed by Acquiescence Recognizing The Existence of A Transaction and in some extent allowed the Transaction or permitted it to be carried into Effect.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

ON (CA) APR OF 2000 during the course of my parole Interview, I was made Harrowingly aware of a conviction against me in (Harris County) This by a MR. Sharber a unit parole officer (i.e. here at the Bill Clements Unit) This conviction is supposedly for a theft which supposedly occurred in (9/92) This being impossible as I was already confined within the confines of this penal institution namely T.D.C. S.I.D. (1) MR. Mike Schwartz was the District Attorney who prosecuted this matter, (See Attached marked 4.01)

RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I'm seeking punitive sanctions in the amount of at least \$5,000 Dollars Each - (See Attach sheet marked - 4.02 V. Relief (one))

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases:

A. K. A. Jerry Smith

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

#529059 (T.D.C. S.I.D.) (85177-107876 L.S.P.)

(See Attached 4.02 marked #OVER*)
VII. General Background Info.

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES NO ✓

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): N/A

2. Case Number: N/A

3. Approximate date sanctions were imposed: N/A

4. Have the sanctions been lifted or otherwise satisfied? YES NO

C. Has any court ever warned or notified you that sanctions could be imposed? YES NO

Attached

V. Statement of Claim

(Cont): Denying me my Due Course of Law.

- (2). Mr. James Seeman was my supposed public defendant of whom I've never met or ever discussed any issue, and finally the
- (3). Judge Mr. William Hatten who supposedly presided over this fiasco. A complete denial of my Due Course of Law, me further disenfranchised and stigmatized; ultimately rendering my chance at parole alone existent - to this already arbitrary Board, Dehumanized with one regard to written Law.

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Attached

V. Relief (Cont): against each of the named Defendants (and) minimum of at least \$20,000 dollars from each of personal Lucke and remuneratives for my self - from the same, as no amount of material gain is able to replace stolen years, mental distress, disenfranchisement and stigma; and finally to have this expunged from my records in Harris County & from the same in The Texas Dept of Criminal Justice.

VII. General Background Info (Cont):

The numbers 85177-107876 are Louisiana State penitentiary numbers.

D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): N/A
2. Case Number: N/A
3. Approximate date warnings were imposed: N/A

Executed on: _____
DATE

Anzetta Smith, #529054

(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$150 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this _____ day of _____, _____
(Day) (month) (year)

Anzetta Smith, #529054

(Signature of plaintiff)

WARNING: The Plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.